

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 17-6017

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JULIUS ADAIR WILEY,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Catherine C. Eagles, District Judge. (1:14-cr-00048-CCE-5; 1:16-cv-01252-CCE-LPA)

Submitted: May 23, 2017

Decided: May 26, 2017

Before KING, AGEE, and WYNN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Julius Adair Wiley, Appellant Pro Se. Sandra Jane Hairston, Robert Michael Hamilton, Angela Hewlett Miller, Assistant United States Attorneys, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Julius Adair Wiley appeals the district court's order accepting the recommendation of the magistrate judge, construing his 18 U.S.C. § 3582(c)(2) (2012) motion for a sentence reduction as a 28 U.S.C. § 2255 (2012) motion, and dismissing that motion as second or successive. Although the district court should not have construed Wiley's motion as one arising under § 2255, we nevertheless agree with the court's alternative reasoning that Wiley is not entitled to relief under § 3582(c)(2) because the Sentencing Commission has not authorized resentencing under Amendment 794 to the Sentencing Guidelines. *See U.S. Sentencing Guidelines Manual* § 1B1.10(a)(1), (d) (2016); *United States v. McHan*, 386 F.3d 620, 622 (4th Cir. 2004). We therefore affirm the denial of relief on that basis. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED